

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

CAMERON J. THOMPSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:21-cv-00151-RLY-MPB
	)	
DAVE WEDDING,	)	
COWLING,	)	
CULVER,	)	
CHANDLER,	)	
ROBINSON,	)	
BUCK,	)	
WOODS,	)	
BLESSINGER,	)	
FERGUSON,	)	
	)	
Defendants.	)	

**Order Screening Complaint, Dismissing Deficient Claims, Denying Motion for Summary Judgment Without Prejudice, and Directing Further Proceedings**

Plaintiff Cameron Thompson is a prisoner currently incarcerated at the Vanderburgh County Correctional Center ("Correctional Center"). He filed this civil action under 42 U.S.C. § 1983 alleging violations of his rights under the United States Constitution based on events that occurred during his incarceration at the Correctional Center; he also brings state-law claims based on theories of negligence and vicarious liability. In addition to his complaint, Mr. Thompson has filed a motion for summary judgment.

**I. Screening**

*A. Screening Standard*

Because the plaintiff is a "prisoner" as defined by 28 U.S.C. § 1915A(c), this Court has an obligation under 28 U.S.C. § 1915A(a) to screen his complaint before service on the defendants. Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the complaint if it is frivolous or

malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. In determining whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015) (internal quotation omitted).

#### *B. The Complaint*

Mr. Thompson names nine defendants in his complaint: (1) Dave Wedding, who is the Sheriff of Vanderburgh County<sup>1</sup>; (2) Officer Cowling; (3) Officer Culver; (4) Officer Chandler; (5) Officer Robinson; (6) Officer Buck; (7) Sergeant Woods; (8) Lieutenant Blessinger; and (9) Major Ferguson. He sues all defendants in both their individual and official capacities and seeks \$50,000 in monetary damages. He bases his complaint on the following allegations:

On or about August 15, 2021, Mr. Thompson was placed at the Correctional Center. After going through the booking process, Mr. Thompson was seen by medical staff. Mr. Thompson has a foot condition that limits his ability to climb to a top bunk bed. He also has a seizure condition that prevents him from sleeping on a top bunk. As a result, medical staff ordered that Mr. Thompson be placed in a bottom bunk. This information was listed in his files with the Correctional Center.

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<sup>1</sup> The Court takes judicial notice that Dave Wedding is the Sheriff of Vanderburgh County.

On September 10, 2021, Mr. Thompson was placed in general population. Officer Grogan took him to his new unit. Upon learning that he had been assigned a top bunk, Mr. Thompson told Officer Grogan that he had a medical condition that required him to have a bottom bunk. Officer Grogan said that he would not accommodate Mr. Thompson and refused to help Mr. Thompson secure a bottom bunk.

Mr. Thompson's cellmate was also restricted to sleeping in a bottom bunk. As a result, Mr. Thompson had to sleep on the floor. Officers Cowling, Culver, Chandler, Robinson, and Buck asked Mr. Thompson to get off the floor and into his assigned top bunk. Mr. Thompson told each of them about his medical conditions that made it impossible for him to sleep on the top bunk and that medical staff had approved him being in a bottom bunk. In response, each of them threatened Mr. Thompson with mace if he did not comply with their orders to move to the top bunk. They also threatened to remove him from general population and move him to segregation if he did not comply.

Mr. Thompson then spoke with Sergeant Woods and explained that he could not sleep on the top bunk. Sergeant Woods repeated the other officers' threats.

Fearful of being harmed by the officers, Mr. Thompson contacted Lieutenant Blessinger and Major Ferguson via the kiosks available in his housing unit. He explained his situation and asked for help. Mr. Thompson was told that he had no choice but to follow the officers' commands or he would suffer the consequences of failing to comply.

Because he feared being sprayed with mace, Mr. Thompson climbed to the top bunk. After climbing to the top bunk, he suffered a seizure and fell. He landed on his head and arm, causing injury to his right elbow. Mr. Thompson alleges that the defendants' negligence caused his injuries.

*C. Discussion*

Applying the screening standard to the facts alleged in the complaint, some claims will proceed, but some must be dismissed. The Court discusses the various claims separately, below:

1. Section 1983 Claims

*a. Official-Capacity Claims*

Mr. Thompson's official-capacity claims against the defendants under § 1983 are really claims against their employer—the Vanderburgh County Sheriff's Office ("Sheriff's Office"). *See Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 690 n.55 (1978). The Sheriff's Office cannot be liable for the acts of its employees under § 1983. Instead, the Sheriff's Office may only be sued when its actions violate the Constitution. *See Levy v. Marion Cty. Sheriff*, 940 F.3d 1002, 1010 (7th Cir. 2019) (applying *Monell*, 436 U.S. 658 (1978) to claim against the sheriff's office of an Indiana county). To state a *Monell* claim, Mr. Thompson must allege that an action taken by the Sheriff's Office caused the deprivation of his federally secured rights. The Sheriff's Office "'acts' through its written policies, widespread practices or customs, and the acts of a final decisionmaker." *Id.* (citing *Bd. of the Cty. Commissioners v. Brown*, 520 U.S. 397, 403–04 (1997)).

The complaint fails to provide any factual basis upon which to conclude that the Sheriff's Office took any action that caused Mr. Thompson's injury. Accordingly, Mr. Thompson's § 1983 claims against the defendants in their official capacities are **dismissed for failure to state a claim on which relief can be granted.**

*b. Individual-Capacity Claims*

i. Sheriff Wedding

To the extent that Mr. Thompson brings individual-capacity claims against Sheriff Wedding, they must be dismissed. "For constitutional violations under § 1983 . . . , a government

official is only liable for his or her own misconduct." *Locke v. Haessig*, 788 F.3d 662, 669 (7th Cir. 2015) (citation and quotation marks omitted). That is, "[l]iability under § 1983 is direct rather than vicarious; supervisors are responsible for their own acts but not for those of subordinates, or for failure to ensure that subordinates carry out their tasks correctly." *Horshaw v. Casper*, 910 F.3d 1027, 1029 (7th Cir. 2018). Sheriff Wedding is not liable for the actions of any of the other defendants. Likewise, Mr. Thompson has not alleged any personal wrongdoing on Sheriff Wedding's part. Accordingly, Mr. Thompson's individual-capacity § 1983 claims against Sheriff Wedding are **dismissed for failure to state a claim on which relief can be granted.**

ii. Major Ferguson, Lieutenant Blessinger, Sergeant Woods, and Officers Cowling, Culver, Chandler, Robinson, and Buck

Mr. Thompson alleges that Major Ferguson; Lieutenant Blessinger; Sergeant Woods; and Officers Cowling, Culver, Chandler, Robinson, and Buck (collectively, the "Correctional Staff Defendants") violated his constitutional rights by requiring him to use a top bunk even though medical staff had ordered his placement in a lower bunk and he had medical conditions that made it unsafe for him to use a top bunk. Mr. Thompson does not specify whether he was a pretrial detainee or a convicted prisoner at the time of the events in his complaint. If he was a pretrial detainee, the Fourteenth Amendment governs his claims, and he must show that his treatment was objectively unreasonable. *See Miranda v. Cty. of Lake*, 900 F.3d 335, 352 (7th Cir. Aug. 10, 2018) (applying objective unreasonableness inquiry to pretrial detainee's medical care claim); *see also Hardeman v. Curran*, 933 F.3d 816, 822 (7th Cir. 2019) (extending *Miranda's* objective unreasonableness inquiry to pretrial detainee's conditions-of-confinement claim). If he was a convicted prisoner, the Eighth Amendment governs his claim, and he must show that the Correctional Staff Defendants were deliberately indifferent to a substantial risk of serious harm to his health and safety. *Farmer v. Brennan*, 511 U.S. 825, 834–35 (1994). Under either standard,

Mr. Thompson's complaint states a claim against the Correctional Staff Defendants, and his individual-capacity § 1983 claims against them **shall proceed**.

2. State-Law Negligence and Vicarious Liability Claims

*a. Individual-Capacity Claims*

Mr. Thompson alleges that the defendants' negligence caused his injuries. Under Indiana law, the elements of a negligence claim are: (1) a duty owed by the defendant to the plaintiff; (2) a breach of that duty; and (3) injury to the plaintiff proximately caused by the defendant's breach. *Hayden v. Franciscan Alliance, Inc.*, 131 N.E.3d 685, 694 (Ind. Ct. App. 2019).

Mr. Thompson alleges that the Correctional Staff Defendants were negligent when they refused to help him secure a bottom bunk and instead required him to climb up to the top bunk, thereby causing him to fall and injure himself. Construing the complaint liberally, Mr. Thompson has adequately alleged negligence claims against the Correctional Staff Defendants in their individual capacities, and those claims **shall proceed**.

Mr. Thompson, however, makes no allegations about any actions that Sheriff Wedding took in his individual capacity. Thus, Mr. Thompson's individual-capacity negligence claims against Sheriff Wedding are **dismissed for failure to state a claim on which relief can be granted**.

*b. Official-Capacity Claims*

Mr. Thompson also brings negligence claims against Sheriff Wedding in his official capacity. The Court understands this as an attempt to bring a tort claim against the Sheriff's Office. Construing the complaint liberally, Mr. Thompson alleges that the Sheriff's Office should be responsible for the negligence of the Correctional Staff Defendants. That is, he alleges that the Sheriff's Office should be vicariously liable for the negligence of the Correctional Staff Defendants

under the doctrine of respondeat superior. "Under the doctrine of respondeat superior, vicarious liability will be imposed upon an employer where an employee has inflicted harm while acting within the scope of his employment. An employee acts within the scope of his employment when the act is incidental to the conduct authorized by an employer or if it, to an appreciable extent, furthers the employer's business." *Harrison Cty. Sheriff's Dep't v. Ayers*, 70 N.E.3d 414, 417 (Ind. Ct. App. 2017) (internal quotation and cited authority omitted). Construing the complaint liberally, Mr. Thompson has adequately alleged that the Correctional Staff Defendants were negligent and that they inflicted harm while acting within the scope of their employment. Thus, his official-capacity state-law vicarious liability claim against the Sheriff's Office **shall proceed**.

To the extent that Mr. Thompson also attempts to sue the Sheriff's Office by bringing official-capacity vicarious liability claims against the Correctional Staff Defendants, such claims are **dismissed as duplicative**.

### 3. Summary

In summary, the individual-capacity § 1983 claims and the individual-capacity state-law negligence claims against Major Ferguson; Lieutenant Blessinger; Sergeant Woods; and Officers Cowling, Culver, Chandler, Robinson, and Buck **shall proceed**. Likewise, the state-law vicarious liability claim against the Sheriff's Office **shall proceed**. All other claims are **dismissed** for the reasons stated above.

**This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have through March 22, 2022, in which to identify those claims.**

## II. Motion for Summary Judgment

Mr. Thompson's motion for summary judgment, dkt. [13], is **denied without prejudice as premature** because defendants have not yet appeared in this case or filed their answers. To the extent that Mr. Thompson intended to file a motion for default judgment, such a motion is not proper at this time. As explained, because Mr. Thompson is incarcerated, the Court is required to screen his complaint before it can be served on the defendants. Thus, the defendants have not yet been served, and they have not failed to timely answer or otherwise respond to his complaint.

## III. Conclusion


In summary, Mr. Thompson's motion for summary judgment, dkt. [16], is **denied without prejudice** as premature.

The **clerk is directed** to terminate Dave Wedding as a defendant on the docket and to add the Vanderburgh County Sheriff's Office as a defendant.

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendants the Vanderburgh County Sheriff's Office, Officer Cowling, Officer Culver, Officer Chandler, Officer Robinson, Officer Buck, Sergeant Woods, Lieutenant Blessinger, and Major Ferguson in the manner specified by Rule 4(d). Process shall consist of the complaint filed on October 14, 2021, dkt. [1], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

IT IS SO ORDERED.

Date: 2/23/2022

  
RICHARD L. YOUNG, JUDGE  
United States District Court  
Southern District of Indiana

Distribution:

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